

IN SENATE OF THE UNITED STATES.

JUNE 20, 1836.

Read, and ordered to be printed.

Mr. DAVIS made the following

REPORT:

The Committee on Commerce have considered the petition of John H. Jacocks, and report thereon as follows:

Jacocks represents that, in November, 1833, he was appointed inspector of the customs, at New Haven, in Connecticut, and was paid for his services three dollars a day, until April, 1834, when, by an order of the Secretary of the Treasury, he was reduced to six hundred dollars a year, at which rate he continued as inspector, for the term of ten months and a half, when the Secretary of the Treasury restored his emoluments to three dollars a day, and so continued them until December, 1835, when the petitioner resigned. He prays for an allowance of the difference between six hundred dollars a year and three dollars a day for the ten and a half months that his emoluments were reduced, amounting to about four hundred and thirty dollars.

The petitioner further represents that the order from the Secretary of the Treasury was procured by representations made by Wm. H. Ellis, collector, Wm. H. Jones, postmaster, and other officers of the United States at New Haven, to the Department, that the "petitioner was insane, and that he was bringing upon himself ridicule and contumely, and upon his office derision and contempt." He adds that "he did not conceive it possible they should have carried their private resentment so far as to defame his character in the dark, and to take from him the small allowance on which he depended for the support of himself," &c.

No evidence besides the petition is adduced, or laid before the committee. They therefore speak of the case as it is there represented, without vouching for the verity of statements.

It then presents this singular aspect: First, Jacocks is allowed what he calls a salary of three dollars a day, that is, three dollars for each and every day, including Sundays, in the year. The law gives no salaries to inspectors, but allows them three dollars a day for actual service, and no more. How the practice of allowing for every day in the year has grown up to exist, in almost every collection district, is unknown to the committee. But, it is obvious that, in most instances, the persons making such charges are not in the service every day, and have no right, within

the plain interpretation of the law, to make such charges. The practice is highly objectionable and ought to be discountenanced. If three dollars a day for the time actually spent in the service is not enough then let the law be modified, instead of the officers making laws for themselves.

Second. Jacocks was represented to be insane, and if insane, incompetent, of course, to discharge the duties of his office. The obvious remedy in such a case is removal, but instead of that his emoluments were reduced from \$1,095 to \$600. This is the remedy applied to insanity, to an officer charged with very important duties. A deranged officer is worth \$600 a year, a sane officer \$1,095. But how is the six hundred dollars made out? The per diem of three dollars for the days actually in employ is the only allowance provided for by law. Jacocks, therefore, must have been authorized to work so many days as would amount, at three dollars each, to \$600, when it was impossible for any one to know whether the services would be necessary or not. It can never with propriety be said that one upon daily pay shall be entitled to a certain sum for a year. The allowance is made by law, by the day, because the employ is uncertain and limited.

If the statement be true, the arrangement was very singular in all its parts, and highly objectionable throughout, as an inspector cannot be said to have any right to the permanent sum of \$1,095 or \$600 a year; and yet the returns show that a very great number receive, year after year, the \$1,095, without allowing a single day for sickness or absence, or a suspension of commercial operations, though the coast is embargoed with ice in the winter for weeks in succession. They call themselves day laborers, and if their accounts are to be taken as proof, exhibit a diligence that is unexampled, a diligence covering Sundays, sickness, and all other periods of leisure or repose. If this practice is to be tolerated in the large ports it certainly is not justifiable in the small.

But, although practices not authorized by law have gradually established themselves and ought to be corrected, what just right has Mr. Jacocks to complain? His emoluments were reduced, and he was notified of it. It was then optional with him to serve or not. The reduction applied, not to past, but to future time, and he was under no obligations to remain a day in the public service. He did remain, and it was his own free will so to do, and thereby agreed to serve so many days as should amount to six hundred dollars. He has done no more, and there seems to be no reason for making him up at the rate of \$1,095 a year, except that he had before been allowed that sum, under some agreement contrary to law.

He seems to have been ungenerously treated if his representations may be relied on; and the committee are far from approbating decrees made affecting the rights of individuals upon secret evidence, and without an opportunity on the part of the accused to defend himself against the accusations; but all this does not change the obligations of this Government in regard to allowing this claim.

On the whole, the committee recommend for adoption the following resolve:

Resolved, That the prayer of the petition ought not to be granted.